

# Appendix

Recommendations for change to Subchapter D, Chapter 154 of the Texas Family Code regarding medical support for children:

- Section 154.182 should be amended to address changes due to the implementation of the Children's Health Insurance Program and the anticipated closing of Texas Healthy Kid's Corporation. Our recommendation is that the reference to Texas Healthy Kid's Corporation be removed, and that it be replaced with a general provision that would cover any insurance programs available to custodial parents for the support of their children. For example, we suggest that section 154.182(b)(3) be amended to provide that:

(3) if health insurance is not available for the child under Subdivision (1) or (2), the court shall order the obligee to provide health insurance for the child if the court finds that health insurance is available for the child from another source available to the obligee, and, in such event, shall order the obligor to pay to the obligee a monthly amount as medical child support to be withheld from earnings under Chapter 158 [Withholding from Earnings for Child Support];

- In addition, section 154.182(b)(6) should be deleted.
- We suggest that section 154.182(c) be amended to remove the reference to \$38 per month as a presumptive cash medical support order, and that the provision be modified to state that the court "shall order a reasonable amount for a child as appropriate under the circumstances."



OFFICE OF THE ATTORNEY GENERAL · STATE OF TEXAS · CHILD SUPPORT DIVISION  
JOHN CORNYN

October 13, 2000

The Honorable Fred Bosse, Texas House of Representatives  
Chair, Sunset Advisory Commission

The Honorable Rodney Ellis, Texas State Senate  
Chair, Senate Jurisprudence Committee

The Honorable Toby Goodman, Texas House of Representatives  
Chair, House Committee on Juvenile Justice and Family Issues

Dear Sirs:

Enclosed is the Office of the Attorney General's Report on "Child Support Enforcement: Alternative Sources of Revenue."

Senate Bill 368, Section 80, 76<sup>th</sup> Legislative Session required the Office of the Attorney General's Child Support Division to investigate the use of alternative sources of revenue to operate the child support program. This report has been prepared in compliance with that legislative requirement.

The Office of the Attorney General is not proposing that the fees considered in this report be implemented; that decision would be a legislative one. Among the factors that must be considered in imposing fees, the most important is the potential impact to family income for the predominantly low income custodial and non-custodial parents in the child support caseload. The costs of implementation are also considered in this report and include both programming costs and administrative costs associated with notification of a change in policy. As noted in the report, most of the potential cost recovery from fees that are considered would accrue to the federal government.

In response to our inquiry on fees, most IV-D directors of other states commented that they have chosen not to implement fees because of the impact to low income IV-D parents, the implementation costs, and the relatively small potential of state cost recovery compared to federal cost recovery.

If you have any further questions about this report, please contact me at 512-460-6122.

Sincerely,

Howard G. Baldwin, Jr.  
Deputy Attorney General for Child Support

cc: Jocy Longley, Sunset Advisory Commission  
Ken Levine, Sunset Advisory Commission  
Colin Coe, Sunset Advisory Commission

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## **Introduction**

Senate Bill 368, Sec. 80, 76<sup>th</sup> Legislature, mandates the Office of the Attorney General (OAG) to investigate paternity establishment fees, service fees, and fees on insufficient funds (NSF) checks as alternative sources of revenue. This report summarizes the costs and benefits of instituting these fees. It examines computer programming costs, the administrative cost of collecting fees, projected revenues from at least two fee levels, and the impact of fees on demand for IV-D services.

There are, however, distinct limitations on fee revenues. First, federal law does not permit the Child Support program to charge fees to custodial parents on TANF or Medicaid cases in active status, and these are over a third of our caseload. Second, and more important, only one-third of fee revenues count towards the state's share of expenses. In calculating the state and federal shares of administrative costs, fee revenues are treated as offsets to costs claimed. Because these are funded at the federal financial participation rate, the net result is that 66% of fee revenues go towards the federal share of expenses, and 34% go towards the state share. This means that for every additional dollar of fee revenue that accrues to the state, the custodial parent loses three dollars in fees.

This report considers fees only in Title IV-D cases. It does not contemplate any type of fee applied to non-IV-D cases with payments processed through the State Disbursement Unit (SDU). The fees considered here are in addition to, and not a substitute for, cost recovery on such services as genetic testing.

To give an idea of the magnitude of these fees, if the Child Support program were to implement a paternity fee, a collection fee at one percent, and an NSF fee, fee revenues would be \$8,806,818 in Year One, \$2,994,318 of which would be retained by the Child Support program, and \$5,812,500 would be transferred to the federal government. Projected revenues are shown in detail in the table below. Against this, we would incur \$2,870,257 in one-time programming costs and \$539,400 in costs to notify custodial and non-custodial parents of the new fees. The state would pay 34% of these administrative costs, and the federal government would pay 66%.

## **Background**

The Child Support Division's revenue structure is affected by the program's shift from welfare recovery to welfare avoidance. In 1994 we served TANF (welfare) and non-TANF clients in equal numbers. Collections from the former were used to recover TANF grants previously paid

by the state. These recoveries were credited against the state's share of program costs, and the program was, in effect, self-sustaining. We are now seeing two factors that will limit our ability to finance ourselves internally in the future.

The first is the rapid increase in non-TANF cases relative to TANF cases. Active TANF cases have decreased by 37% since 1994. In contrast, non-TANF cases, including both former and never TANF, increased by 167% in the same period. Thus we went from rough parity in 1994 to more than four non-welfare cases for every TANF case.

The second factor, the family-first provisions in Welfare Reform, will reduce the amount of welfare recovered. These provisions have changed the order in which collections are distributed, increasing the proportion of collections paid to families and reducing the amount retained by the state. Pending federal legislation is likely to reduce the state's share even more.

### Fee Revenues Summary

To estimate fee revenue we used the following fee schedule:

<b>PRO FORMA FEE SCHEDULE</b>			
<b>Paternity Fee</b>	<b>\$100.00</b>	recovered from Non-Custodial Parent	
<b>Collection Fee</b>	<b>1.0%</b>	not to exceed \$25 per collection	
<b>Collection Fee</b>	<b>3.0%</b>	not to exceed \$25 per collection	
<b>Collection Fee</b>	<b>5.0%</b>	not to exceed \$25 per collection	
<b>Payment Processing Fee</b>	<b>\$1.00</b>	per warrant mailed or EFT	
<b>NSF Check Fee</b>	<b>\$25.00</b>	in addition to fees recovered by county	

The table below summarizes costs and revenues for each type fee and their state share:

<b>PROJECTED FEE COSTS &amp; REVENUES</b>	<b>Year One Revenues</b>	<b>Year Two Revenues</b>	<b>Year One Costs</b>
Paternity Fees	\$578,268	\$586,548	\$1,304,920
1% Collection Fee	\$8,208,750	\$8,746,050	\$1,282,292
3% Collection Fee	\$24,502,500	\$26,106,300	(same)
5% Collection Fee	\$39,187,500	\$41,752,500	(same)
Payment Processing Fees	\$3,640,909	\$3,647,611	(same)
NSF Check Fees	\$19,800	\$20,250	\$283,045
Administrative Costs			\$539,400

In calculating the state and federal shares of administrative costs, fee revenues are treated as offsets to costs claimed. Because these are funded at the federal financial participation rate, the net result is that 66% of fee revenues go towards the federal share of expenses, and 34% go towards the state share.

Our estimates of fee revenues in the first two full years of operation (Years One and Two) are based on the projected transactions volume for Fiscal Year 2002 and 2003:

<b>BASIS FOR CHARGE</b>	<b>Year One</b>	<b>Year Two</b>
Paternalities Established - Cases	48,189	48,879
Collections (\$ millions)	\$1,100	\$1,172
of which: Non Welfare	\$801	\$855 not active TANF or Medicaid
IV-D Comptroller Warrants	5,000,000	5,000,000
of which: Non Welfare	3,640,909	3,647,611 not active TANF or Medicaid
Insufficient Funds (NSF) Checks	792	810 recovered by county attorney

### **Paternity Establishment Fees**

A paternity establishment fee of \$100 would be assessed against the non-custodial parent at the time that the court adjudicates paternity and establishes a child support order. This fee would be in addition to cost recovery on genetic testing. For voluntary acknowledgment of paternity - usually executed in the hospital at the time of birth - no fee would be assessed. A fee would discourage hospital based voluntary paternitys, and these cases must still go before a judge to set the support amount.

Since the fee is assessed against the non-custodial parent, the federal prohibition of fees on active TANF and Medicaid cases would not apply. However, they would only be recovered for the state after the custodial parent's current support obligation is satisfied. This requirement would restrict recoveries to a relatively small proportion of cases, even when paying cases are considered. It would also require programming changes to the distribution hierarchy.

<b>PATERNITY FEES</b>	<b>Year One</b>	<b>Year Two</b>
Paternalities Established	48,189	48,879
Fee @	\$100	\$100
Paternality Fees Incurred	\$4,818,900	\$4,887,900
% of Fee Cases with Collections	60%	60%
% of Collections where Fees Recovered (i.e. obligation is current)	20%	20%
Paternality Fees Recovered	\$578,268	\$586,548
of which, State Share	\$196,611	\$199,426

## Collections Fees

We calculated collections fees assessed against custodial parents by two different methods. First, we calculated a percentage of collections on eligible cases. These are cases that are not active TANF or Medicaid. We calculated fee revenues at one, three and five percent of collections. As an alternate, we calculated the effect of a one dollar charge on every warrant issued or electronic funds transfer. There are several states that impose either percentage fees or a transaction service charge.

To estimate the base of eligible collections on which fees could be charged, we tabulated all disbursements from June through August 2000. Twenty-five percent of all disbursements were made to active TANF or Medicaid cases and cannot be charged fees. The remaining 75% of disbursements are susceptible to fees. These do not include disbursements that the State Disbursement Unit makes on non-IV-D cases. Applying 75% to projected collections for Fiscal Years 2002 and 2003 provides the collections base on which fees can be charged.

PERCENT OF COLLECTIONS SUBJECT TO FEES (\$ millions)	Disbursed		Collections	
	June-Aug. 2000		Year One	Year Two
Disbursements NOT subject to fees	481,573	25%	\$275	\$293
Disbursements subject to fees	1,467,870	75%	\$825	\$879
Total	1,949,443	100%	\$1,100	\$1,172

Applying a one percent fee to this collections base would net the following fees:

COLLECTION FEES @ 1%	Year One	Year Two
Fee Base (\$ millions)	\$825	\$879
Fee %	1.0%	1.0%
	\$8,250,000	\$8,790,000
Proportion of Fees at or under \$25	99.5%	99.5%
Collection Fees @ 1%	\$8,208,750	\$8,746,050
of which, State Share	\$2,790,975	\$2,973,657

Similarly a three percent fee would yield:

COLLECTION FEES @ 3%	Year One	Year Two
Fee Base (\$ millions)	\$825	\$879
Fee %	3.0%	3.0%
	\$24,750,000	\$26,370,000
Proportion of Fees at or under \$25	99.0%	99.0%
Collection Fees @ 3%	\$24,502,500	\$26,106,300
of which, State Share	\$8,330,850	\$8,876,142

And, using the same base, a five percent fee would yield:

<b>COLLECTION FEES @ 5%</b>	<b>Year One</b>	<b>Year Two</b>
Fee Base (\$ millions)	\$825	\$879
Fee %	5.0%	5.0%
	\$41,250,000	\$43,950,000
Proportion of Fees at or under \$25	95.0%	95.0%
Collection Fees @ 5%	\$39,187,500	\$41,752,500
of which, State Share	\$13,323,750	\$14,195,850

Note that as the fee percentage gets larger, a larger proportion of individual fees exceeds \$25, the maximum charge, so that fees do not grow in direct proportion to the nominal percentage rate.

### **Payment Processing Fees**

To estimate the base of eligible payment transactions on which to charge payment processing fees, we applied the same 75% of disbursements ratio to the projected disbursement transactions, whether by EFT or warrants. To these transactions, we applied a one-dollar fee per payment transaction.

<b>PAYMENT PROCESSING FEES</b>	<b>Year One</b>	<b>Year Two</b>
Warrants Issued or EFT (non-welfare)	3,640,909	3,647,611
Fee @	\$1.00	\$1.00
Payment Processing Fees	\$3,640,909	\$3,647,611
of which, State Share	\$1,237,909	\$1,240,188

### **Fees on Insufficient Funds Checks**

When banks return checks marked NSF (insufficient funds) we send the payor a dunning letter requesting immediate replacement. This letter results in replacements for 62% of bad checks, but only 43% of the dollar value outstanding. We do not charge a fee when NSF checks are replaced immediately, since that might reduce voluntary compliance. If we do not receive a replacement check within 20 days, the NSF check is turned over for collection to the county attorney in the county where the check was received.

County collection efforts recover an additional 46% of checks, or 34% of the dollar value of the checks not replaced voluntarily. The combined recovery rate is 79% of checks and 63% of the dollar value. Because the non-custodial parent's obligation must still be satisfied, and because we routinely make subsequent collections, the ultimate recovery rate on NSF checks is higher than this.

While county attorneys levy their own fees for collection service, the OAG has not charged an additional fee, though that is common commercial practice. Imposing a \$25 fee on top of what counties charge would provide only a modest revenue, but the costs of implementation would be

significant. Since the counties can invoke criminal penalties, tying this fee to their recovery efforts should not have a material effect on restitution.

<b>NSF CHECK FEES</b>	<b>Year One</b>	<b>Year Two</b>
NSF Checks (all)	4,400	4,500
NSF Checks Replaced	2,640	2,700
NSF Checks sent to County	1,760	1,800
NSF Checks Recovered by County	792	810
Fee @	\$25.00	\$25.00
NSF Check Fees Recovered	\$19,800	\$20,250
of which, State Share	\$6,732	\$6,885

### Computer Programming Costs

We estimated computer programming by the type of fee to be implemented:

<b>COMPUTER PROGRAMMING COSTS</b>		
	<b>Hours</b>	<b>Cost</b>
Program Collections Fees	23,406	\$1,282,292
Program Paternity Fees	20,606	\$1,304,920
Program NSF Check Fees	5,167	\$283,045
Total	49,179	\$2,870,257
of which, State Share		\$975,887

The assumptions that we used to make these programming estimates are listed below:

#### Assumptions affecting fee programming:

- There will be no retroactive assessment of fees.
- The legislation will allow sufficient time to implement the changes before the effective date.
- Fee amounts collected will be distributed to the Child Support Retained Collections account monthly.
- Project planning and management, as well as functional analysis, support, planning and testing will be done by state staff. Technical development, support and implementation will be done by contractor staff.

#### Assumptions regarding collections fees:

- The impact to the TXCSES system will be the same for a 1%, 3%, or 5% service fee on collections. It will also be the same for a \$1 service fee on collection.
- There will be a significant impact to the TXCSES system.
- The fee is deducted from the collections owed to the custodial parent.
- The fee is capped at \$25.
- Current TANF, Medicaid-Active, and Foster Care are excluded.

- As a recovery state, modifications will be needed for Interstate cases in both handling the fee and reporting to other states and the federal government.
- Distribution changes will be impacted.
- Management reports will require changes.

#### Assumptions regarding paternity fees:

- The impact to the TXCSES system will be the same for a \$100 or \$200 paternity fee on legal actions.
- There will be a significant impact to the TXCSES system.
- The fee is assessed against the non-custodial parent when paternity is established.
- There will be a court order to require the fee.
- The fee will be assessed similarly to genetic testing or attorney fees.
- We will need a new obligation type and receipt type at both OAG and SDU.
- A contract amendment for work at the SDU will be required.
- Modifications to the Web-based applications will be required.
- Management reports will require changes.

#### Assumptions regarding NSF check fees:

- Insufficient funds fee of \$25.
- Currently, the OAG covers the first bad check, then the SDU vendor is responsible for further bad checks. It is assumed that there will be no impact to the SDU for collecting this fee.
- Manual processing at the local level could be extensive.
- Changes in Distribution, Adjustments, and Management Reports would be needed.

## **Administrative Cost of Collecting Fees**

As part of implementing new fees, we identified the following administrative responsibilities:

- Changing the State Plan to elect cost recovery;
- Notifying other IV-D programs;
- Providing notice in the Texas Register;
- Informing custodial and non-custodial parents through a one-time mailing;
- Notifying recipients of payments through a "payment stuffer";
- Altering the Web-site to reflect cost recovery status;
- Making changes to eight publications that address IV-D services in both English and Spanish;
- Changing the text on 80 automated forms, including the application form;
- Developing a written methodology to determine standardized costs;
- Providing the written methodology to any individual upon request.

<b>ADMINISTRATIVE COSTS</b>	
Custodial + Non-Custodial Parents	1,900,000
Bulk Rate Postage & Production Costs	\$0.26
Cost of Mailout	\$494,000
Revise & Replace Forms	\$40,000
Payment Stuffers	\$5,400
Notification Costs	\$539,400
of which, State Share	\$183,396

The largest administrative cost is the task of notifying the nearly two million custodial and non-custodial parents who would be affected. This would require a letter to each custodial parent and to each non-custodial parent for whom we have a valid address, or approximately 1,900,000 mail-outs. We estimate \$0.26 per item mailed, \$0.16 for bulk-rate postage and \$0.10 for production and addressing costs. At this rate, the mailout would cost \$494,000. Eighty automated forms would require revision costing an estimated \$40,000. We estimate an additional \$5,400 for payment stuffers. While other costs would be incurred, such as posting in offices, revisions to manuals, changes to our web-site and publications, these should be included within normal operating costs.

### **Impact on Demand for IV-D Services**

The Office of the Attorney General requested input from several organizations to assist in determining the impact of fees on the demand for Title IV-D services. These organizations, familiar with the Title IV-D program and its service population, were uniquely positioned to provide insight as to the impact of fees. The organizations include: The Center for Law and Social Policy in Washington, D.C., the Center for Public Policy Priorities in Austin, the Ray Marshall Center for the Study of Human Resources at the University of Texas at Austin, Fathers for Equal Rights, and the Association for Children for Enforcement of Support, Inc. (ACES).

The Center for Law and Social Policy (CLASP) responded with an analysis of a federal fee proposal, saying: "The fee proposal could drive down collections, and push families out of the state child support system, while increasing administrative costs, employer burden, and the proportion of hard-to-serve cases." CLASP also transmitted summary data on incomes of IV-D families in 1995, taken from the 1996 Current Population Survey, showing that 77 percent of non-welfare families had incomes less than \$36,474 or 300% of poverty and 24 percent had incomes below \$12,158 or 100% of poverty. CLASP noted that "Child support makes the biggest difference in the budgets of low-income working families. For a single mother family with an income of \$16,106, child support was 21 percent of the family's budget in 1995." The Center for Public Policy Priorities responded, concurring with CLASP's perspective.

The Ray Marshall Center responded by commenting on the value of subsidized child support enforcement services (CSES), comparing those services to subsidized education. The Center

wrote "...in the provision of subsidized CSES, there is a private benefit that accrues to the client, plus a public benefit we all receive from children being supported by both their parents."

We know from internal statistics that approximately 38% of our custodial parents are currently receiving TANF or Medicaid. While federal law requires that they be referred to us for child support enforcement, it also prohibits us from charging them fees. As there are no fees in these cases, there should be no impact on their demand for services.

In contrast, Bexar and Tarrant counties have pilot projects operating under a federal waiver from the requirement to apply for services. New child support orders entered in these counties are automatically referred for IV-D services. These orders are monitored for compliance, and enforcement action is taken if delinquency occurs. The custodial parent is offered the opportunity to opt out of this referral, but typically chooses not to. A service fee assessed from the custodial parent's collections is likely to increase the number of custodial parents who opt out of IV-D services. Fewer support orders would then be referred for automatic monitoring and enforcement services.

## **Existing Fee Structure**

Federal regulations require an application fee (not to exceed \$25) for IV-D services, but there is great variety in how IV-D programs implement application fees. Thirteen IV-D programs charge the full \$25 to applicants for services. Some states assess a fee on a sliding scale relative to the applicant's income. Most states, however, assess only a nominal one-dollar fee, or even \$0.01. Many states, including Texas, pay this minimal fee rather than assess it against the applicant, because application fees are viewed as barriers to obtaining needed services. The General Accounting Office (GAO) in their June 1995 publication, "Child Support Enforcement: Opportunity to Reduce Federal and State Costs," argues in favor of "eliminating the mandatory applicant fee." Instead, they favor a percentage service fee in part because "this alternative should not discourage NPA [non-public assistance] clients from seeking valuable child support services."

Genetic testing fees are paid by an NCP to reimburse the State for the cost of tests that were required to establish paternity, provided that a court has ordered it. In Texas, genetic testing fees are routine if the putative father has requested the genetic testing and is found to be the father of the child. Since the federal government reimburses 90% of the expenditure on genetic testing, the 90% of the recovery of genetic testing fees accrues to the federal government and only 10% is state recovery. Most states assess genetic testing fees.

Assessing a fee does not mean that the fee is collected. When a receipt is identified, or earmarked, as a genetic test fee or attorney fee payment, collections posted to a case are applied directly to the fee. If the NCP requests that receipts in overage or future pay be applied to fees, a receipt adjustment is initiated. Court cost receipts are automatically placed on collection hold. These receipts are intended for court costs charged by a court and should be paid to the court. The OAG merely passes the payments through as if they are sent in error and they are then refunded to the appropriate court.

## **OAG's Obligation to Pay Fees and Costs**

While the focus of this study is on fees charged by the IV-D program, it should be emphasized that the program is also obligated to pay fees to counties. The amount of these costs is substantial. Court costs, including filing fees and service of process fees, are routinely assessed in OAG court orders. Court costs are established by statute and are owed to the counties. Pursuant to state law and to county contracts, the counties are reimbursed the federal share of court costs submitted and verified as expenditures. Some counties vigorously pursue court costs from the non-custodial parents and other counties do not. The court may also assess attorney's fees against an NCP to cover the attorney costs, but typically these are not included in OAG orders.

## **Fees and Cost Recovery in Other States**

Federal regulations allow a state to collect fees for genetic testing, locate and federal tax offset without declaring itself to be a cost recovery state. Recovery of additional administrative costs puts a state in the cost recovery category. Cost recovery states must elect this option in their State Plan and develop a written methodology to determine standardized costs. Fewer than fifteen IV-D programs specifically elect in their State Plans to recover costs. A few of these cost recovery programs, including New York, Arkansas and Kansas, utilize percentage collection fees. Among those states that do not elect to recover costs, a number impose a payment processing fee or a transaction fee on collections or a percentage fee on collections.

According to a report by the Lewin Group, of fifty states (and the District of Columbia), only twenty currently charge fees. Of these, over half are county administered programs and these account for nearly 90% of all fee revenues. Even for county administered programs, fees are a small proportion - five percent - of the states' share of program costs. The comparison may be somewhat misleading, however; equivalent fees are charged by counties in other programs, but they do not show up as part of IV-D funding. In effect, county administered IV-D programs have federalized fees that in other states are strictly county revenue.

The OAG surveyed Title IV-D directors in order to gather information for this report. Two states, Minnesota and Florida, provided copies of reports on fees that are referenced. Virginia provided survey responses on fees and cost recovery that they had compiled. Most responses, however, indicated reservations about cost recovery because of the impact to low-income IV-D parents, the costs of implementation, and the relatively small potential of state cost recovery compared to federal cost recovery. Florida reported that "\$9.3 million in administrative costs were ordered by courts to be paid to CSE and the program collected just over \$1 million. Of the amount collected, approximately \$327,000 was retained by the state ..."

The General Accounting Office (GAO) came to the following conclusion in their June 1995 publication, "Child Support Enforcement: Opportunity to Reduce Federal and State Costs":

"After considering the various alternatives, we [the GAO] reported that (1) charging a

percentage service fee of all child support collections and (2) eliminating the mandatory application fee and optional federal and state tax offset fees would provide the most appropriate alternative to finance NPA child support services. This approach offers several advantages over the other alternatives we evaluated and provides significant potential for increasing the recovery of administrative costs. State child support officials with whom we discussed this approach believe that it would be simple to administer. In addition, because there is no up-front cost to the client as with an applicant fee, this alternative should not discourage NPA clients from seeking valuable child support services, such as location and paternity establishment, even if collections are not realized. The approach could lessen the financial burden on clients who have limited financial resources, because fees would be collected only when child support payments are received.”

## **Conclusion**

This report is intended to provide a mechanism for assessing the costs and benefits of cost recovery through several fee mechanisms. It is written in compliance with the requirements of Senate Bill 368, Section 80, 76th Legislative Session. The Attorney General's Office is not proposing that the fees considered in this report be implemented. That decision is a legislative one and must be made by weighing costs to IV-D families, costs to implement, and revenue benefits.

# Appendix I - Senate Bill 368, 76th Legislature

## SECTION 80

(a) The attorney general's child support enforcement division shall investigate the use of alternative sources of revenue to operate the child support program. As part of the investigation, the division shall perform a cost-benefit analysis of charging fees, including

- a paternity establishment fee,
- a service fee, and
- a fee charged for a check or money order not paid because of insufficient funds.

The cost-benefit analysis must include analysis of:

- (1) the cost of reprogramming the computer system to handle the imposition and collection of fees in an efficient manner;
- (3) the estimated administrative cost of collecting fees;
- (3) the projected revenues from at least two fee levels; and
- (4) the impact of the alternative fee levels on demand for Title IV-D services.

(b) The division shall report its findings under this section not later than October 15, 2000, to the Sunset Advisory Commission and the standing committees of the senate and house of representatives having primary jurisdiction over child support issues.

# Appendix II - Federal Regulations on Fees

CODE OF FEDERAL REGULATIONS  
TITLE 45--PUBLIC WELFARE  
SUBTITLE B--REGULATIONS RELATING TO PUBLIC WELFARE  
CHAPTER III--OFFICE OF CHILD SUPPORT ENFORCEMENT (CHILD SUPPORT  
ENFORCEMENT PROGRAM), ADMINISTRATION FOR CHILDREN AND  
FAMILIES, DEPARTMENT OF HEALTH AND HUMAN SERVICES  
PART 302--STATE PLAN REQUIREMENTS

## § 302.33 Services to individuals not receiving title IV-A or title IV-E foster care assistance.

### (a) Availability of Services.

(1) The State plan must provide that the services established under the plan shall be made available to any individual who:

(i) Files an application for the services with the IV-D agency. In an interstate case, only the initiating State may require an application under this section; or  
(ii) Is a non-title IV-A Medicaid recipient; or  
(iii) Has been receiving IV-D services and is no longer eligible for assistance under the title IV-A, IV-E foster care, and Medicaid program.

(2) The State may not require an application, other request for services or an application fee from any individual who is eligible to receive services under paragraphs (a)(1)(ii) and (iii) of this section. If an individual receiving services under paragraph (a)(1)(iii) of this section refuses services in response to a notice under paragraph (a)(4) of this section, and subsequently requests services, that individual must file an application and pay an application fee.

(3) The State may not charge fees or recover costs from any individual who is eligible to receive services under paragraph (a)(1)(ii) of this section.

(4) Whenever a family is no longer eligible for assistance under the State's title IV-A, IV-E foster care, and Medicaid programs, the IV-D agency must notify the family, within five working days of the notification of ineligibility, that IV-D services will be continued unless the IV-D agency is notified to the contrary by the family. The notice must inform the family of the consequences of continuing to receive IV-D services, including the available services and the State's fees, cost recovery and distribution policies.

(5) The State must provide all appropriate IV-D services, in addition to IV-D services related to securing medical support, to all individuals who are eligible to receive services under paragraph (a)(1)(ii) of this section unless the individual notifies the State that only IV-D services related to securing medical support are wanted.

(b) Definitions. For purposes of this section:

"Applicant's income" means the disposable income available for the applicant's use under State law.

(c) Application fee.

(1) Beginning October 1, 1985, the State plan must provide that an application fee will be charged for each individual who applies for services under this section. Under this paragraph:

(i) The State shall collect the application fee from the individual applying for IV-D services or pay the application fee out of State funds.

(ii) The State may recover the application fee from the noncustodial parent who owes a support obligation to a non-title IV-A family on whose behalf the IV-D agency is providing services and repay it to the applicant or itself.

(iii) State funds used to pay an application fee are not program expenditures under the State plan but are program income under S 304.50 of this chapter.

(iv) Any application fee charged must be uniformly applied on a statewide basis and must be:

(A) A flat dollar amount not to exceed \$25 (or such higher or lower amount as the Secretary may determine to be appropriate for any fiscal year to reflect increases or decreases in administrative costs); or

(B) An amount based on a fee schedule not to exceed the flat dollar amount specified in paragraph (c)(2)(iv)(A) of this section. The fee schedule must be based on the applicant's income.

(v) The State may allow the jurisdiction that collects support for the State under this part to retain any application fee collected under this section.

(2) In an interstate case, the application fee is charged by the State where the individual applies for services under this section.

(d) Recovery of costs.

(1) The State may elect in its State plan to recover any costs incurred in excess of any fees collected to cover administrative costs under the IV-D State plan. A State which elects to recover costs shall collect on a case by case basis either excess actual or standardized costs:

(i) From the individual who owes a support obligation to a non-title IV-A family on whose behalf the IV-D agency is providing services under this section; or

(ii) From the individual who is receiving IV-D services under paragraph (a)(1) (i) or (iii) of this section, either directly or from the support collected on behalf of the individual, but only if the State has in effect a procedure for informing all individuals authorized within the State to establish an obligation for support that the State will recover costs from the individual receiving IV-D services under paragraphs (a)(1) (i) and (iii) of this section.

(2) A State that recovers standardized costs under paragraph (d)(1) of this section shall develop a written methodology to determine standardized costs which are as close to actual costs as is possible. This methodology must be made available to any individual upon request.

(3) The IV-D agency shall not treat any amount collected from the individual as a recovery of costs under paragraph (d)(1)(i) of this section except amounts which exceed the current support owed by the individual under the obligation.

(4) If a State elects to recover costs under paragraph (d)(1)(ii) of this section, the IV-D agency may attempt to seek reimbursement from the individual who owes a support obligation for any costs paid by the individual who is receiving IV-D services and pay all amounts reimbursed to the individual who is receiving IV-D services.

(5) If a State elects to recover costs under this section, the IV-D agency must notify, consistent with the option selected, either the individual who is receiving IV-D services under paragraphs (a)(1) (i) or (iii) of this section, or the individual who owes a support obligation that such recovery will be made. In an interstate case, the IV-D agency where the case originated must notify the individual receiving IV-D services of the States that recover costs.

(6) The IV-D agency must notify the IV-D agencies in all other States if it recovers costs from the individual receiving IV-D services.

# Appendix III - Federal Law on Application Fees

UNITED STATES CODE ANNOTATED  
TITLE 42. THE PUBLIC HEALTH AND WELFARE  
CHAPTER 7--SOCIAL SECURITY  
SUBCHAPTER IV--GRANTS TO STATES FOR AID AND SERVICES TO NEEDY  
FAMILIES WITH CHILDREN AND FOR CHILD-WELFARE SERVICES  
PART D--CHILD SUPPORT AND ESTABLISHMENT OF PATERNITY

## § 654. State plan for child and spousal support

A State plan for child and spousal support must--  
(6) provide that--

(B) an application fee for furnishing such services shall be imposed on an individual, other than an individual receiving assistance under a State program funded under part A or E of this subchapter, or under a State plan approved under subchapter XIX of this chapter, or who is required by the State to cooperate with the State agency administering the program under this part pursuant to subsection (l) or (m) of section 2015 of Title 7 [food stamps], and shall be paid by the individual applying for such services, or recovered from the absent parent, or paid by the State out of its own funds (the payment of which from State funds shall not be considered as an administrative cost of the State for the operation of the plan, and shall be considered income to the program), the amount of which

(i) will not exceed \$25 (or such higher or lower amount (which shall be uniform for all States) as the Secretary may determine to be appropriate for any fiscal year to reflect increases or decreases in administrative costs), and

(ii) may vary among such individuals on the basis of ability to pay (as determined by the State),

(C) a fee of not more than \$25 may be imposed in any case where the State requests the Secretary of the Treasury to withhold past-due support owed to or on behalf of such individual from a tax refund pursuant to section 664(a)(2) of this title,

(D) a fee (in accordance with regulations of the Secretary) for performing genetic tests may be imposed on any individual who is not a recipient of assistance under a State program funded under part A of this subchapter, and

(E) any costs in excess of the fees so imposed may be collected--

(i) from the parent who owes the child or spousal support obligation involved; or

(ii) at the option of the State, from the individual to whom such services are made available, but only if such State has in effect a procedure whereby all persons in such State having authority to order child or spousal support are informed that such costs are to

be collected from the individual to whom such services were made available;

...  
(21) (A) at the option of the State, impose a late payment fee on all overdue support ... in an amount equal to a uniform percentage determined by the State (not less than 3 percent nor more than 6 percent) of the overdue support, which shall be payable by the noncustodial parent owing the overdue support; and

(B) assure that the fee will be collected in addition to, and only after full payment of, the overdue support, and that the imposition of the late payment fee shall not directly or indirectly result in a decrease in the amount of the support which is paid to the child (or spouse) to whom, or on whose behalf, it is owed;

### **§ 655. Payments to States**

#### **(a) Amounts payable each quarter**

(1) From the sums appropriated therefor, the Secretary shall pay to each State for each quarter an amount ... equal to the [66] percent ... of the total amounts expended by such State during such quarter for the operation of the plan approved under section 654 of this title, ... In determining the total amounts expended by any State during a quarter, for purposes of this subsection, there shall be excluded an amount equal to the total of any fees collected or other income resulting from services provided under the plan approved under this part.

# Appendix IV - Texas Family Code - Costs & Fees Paid by IV-D Program

## TEXAS FAMILY CODE

### CHAPTER 231. TITLE IV-D SERVICES

#### SUBCHAPTER A. ADMINISTRATION OF TITLE IV-D PROGRAM

##### Sec. 231.103 (a) Authority to Assess Fees

(a) The Title IV-D agency may charge a reasonable application fee and recover costs for the services provided.

##### Sec. 231.202. Authorized Costs and Fees in Title IV-D Cases.

In a Title IV-D case filed under this title, the Title IV-D agency shall pay:

- (1) filing fees and fees for issuance and service of process
- (2) fees for transfer;
- (3) fees for the issuance and delivery of orders and writs of income withholding
- (4) a fee of \$45 for each item of process to each individual on whom service is required, including service by certified or registered mail, to be paid to a sheriff, constable, or clerk whenever service of process is required.

"(5) mileage costs incurred by a sheriff or constable when traveling out of the county to execute an outstanding warrant or capias,

##### Sec. 231.204. Prohibited Fees in Title IV-D Cases.

... county may not charge Title IV-D for:

- (A) performing services related to the estates of deceased persons or minors;
- (B) certifying copies; or
- (C) comparing copies to originals;
  - (2) a court reporter fee,
  - (3) a judicial fund fee;
  - (4) a fee for a child support registry, enforcement office, or domestic relations office; and
  - (5) a fee for alternative dispute resolution services.

##### Sec. 231.207. Method of Billing

(a) To be entitled to reimbursement under this subchapter, the clerk of the court, sheriff, or constable must submit one monthly billing to the Title IV-D agency.

##### Sec. 231.209. Payment for Services Not Affected

Title IV-D agency may pay the costs for:

- (1) the services of an official court reporter for the preparation of statements of facts;
- (2) the costs for the publication of citation served by publication; and

(3) mileage or other reasonable travel costs incurred by a sheriff or constable when traveling out of the county to execute an outstanding warrant or capias,

**Sec. 231.210. Authority to Pay Litigation Expenses.**

(a) The Title IV-D agency may pay all fees, expenses, costs, and bills necessary to secure evidence and to take the testimony of a witness, including advance payments or purchases for transportation, lodging, meals, and incidental expenses of custodians of evidence or witnesses whose transportation is necessary and proper for the production of evidence or the taking of testimony in a Title IV-D case.

**Sec. 231.211. Award of Cost Against Nonprevailing Party**

(a) At the conclusion of a Title IV-D case, the court may assess attorney's fees and all court costs as authorized by law against the nonprevailing party, except that the court may not assess those amounts against the Title IV-D agency. Such fees and costs may not exceed reasonable and necessary costs as determined by the court.

## Appendix V - Additional References

*Preliminary Assessment of the Associations between State Child Support Enforcement Performance and Financing Structure (Working Paper)* - Office of Child Support Enforcement, U.S. Dept. of Health & Human Services & Lewin Group, August 1, 2000, Contract No. 100-96-011, T.O. #5

*Profile of Court-Assessed Administrative Costs, and Collection of Costs by the Child Support Enforcement Program* - Florida Department of Revenue, February 26, 1999

*Child Support Fees Proposal* - Minnesota Department of Human Services, February 22, 1999

*Child Support Enforcement: Opportunity to Reduce Federal & State Costs (Testimony)* - U.S. House of Representatives, Committee on Ways and Means, June 13, 1995, GAO/T-HEHS-95-181

*Child Support Enforcement Efforts Have Not Kept Pace with Expanding Program (Testimony)* - U.S. Senate, Committee on Governmental Affairs, July 20, 1994, GAO/T-HEHS-94-209

*Child Support Enforcement: Opportunity to Defray Burgeoning Federal and State Non-AFDVC Costs* - Report to Congressional Committees, June 5, 1992, GAO/HRD-92-91